

# Minnesota OSHA Workplace Inspections

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Minnesota Department of Labor and Industry  
Occupational Safety and Health Division  
443 Lafayette Road N.  
St. Paul, MN 55155-4307  
Phone: (651) 284-5050  
Toll-free: 1-877-470-OSHA (1-877-470-6742)  
E-mail: [osha.compliance@state.mn.us](mailto:osha.compliance@state.mn.us)  
Web: [www.dli.mn.gov](http://www.dli.mn.gov)

## **Introduction**

Under the Minnesota Occupational Safety and Health Act of 1973 (the act), Minnesota OSHA (MNOSHA) is authorized to conduct workplace inspections to determine whether employers are complying with standards and providing a safe and healthful workplace.

Workplace inspections in Minnesota are performed by occupational safety and health investigators (OSHIs) who are knowledgeable and experienced in the occupational safety and health field.

This booklet is divided into six parts: inspection priorities; the inspection process; inspection results; appeals process; consultation services; and information services.

### **• Inspection priorities**

MNOSHA has established a system of inspection priorities described below. Inspections are conducted without advance notice. If an employer refuses to admit a MNOSHA investigator, or if an employer attempts to interfere with the inspection, MNOSHA may pursue legal action to obtain entry.

#### **Imminent danger**

Imminent danger situations are given top priority. An imminent danger is any condition or practice that presents a substantial probability that death or serious physical harm could occur immediately or before the danger can be eliminated through normal enforcement procedures. MNOSHA becomes aware of these situations through reports received from employees, the general public or direct observation by an investigator.

If an imminent danger situation is identified, the safety and health investigator will ask the employer to voluntarily eliminate the hazard and to remove the endangered employees from exposure. If the employer fails to do this, MNOSHA may "red tag" the equipment or job site for 72 hours.

#### **Fatal accidents and catastrophes**

Second priority is given to investigations of work-related fatalities and catastrophes. Fatalities are defined as employee deaths resulting from an employment accident or illness caused by or related to a workplace hazard. OSHA considers catastrophes to be accidents resulting in hospitalization of three or more employees. "Hospitalization" means an injured employee is admitted to a hospital as an inpatient. All work-related fatalities and catastrophes must be reported to MNOSHA by the employer within eight hours.

MNOSHA investigates to determine the cause of such accidents, whether existing OSHA standards were violated and whether the promulgation of additional standards is necessary to help avoid a recurrence of similar accidents.

#### **Employee complaints**

Third priority is given to formal employee complaints concerning unsafe or unhealthful working conditions.

Every employee can notify MNOSHA to request an inspection when he or she thinks there is a violation of an OSHA standard that threatens physical harm to employees. MNOSHA will maintain confidentiality of the complainant's identity and will inform the complainant of any action it takes regarding the complaint.

## **Programmed inspections**

Fourth priority is given to programmed (routine) inspections. Industries are selected for programmed inspections based on factors such as workers' compensation claims or current special-emphasis programs.

## **Followup inspections**

Final priority is given to followup inspections. A followup is done to determine if previously cited violations have been corrected. If an employer has failed to abate a violation, he or she is subject to "Failure to abate" violations and additional penalties.

## **• The inspection process**

### **Preparing for the inspection**

Prior to the inspection, the OSHI will become familiar with as many relevant facts as possible about the workplace, such as the inspection history of the establishment, the nature of the business and the particular standards that might apply.

### **Investigator's credentials**

When the MNOSHA investigator arrives at the establishment, he or she presents official credentials and asks to meet an appropriate employer representative. Employers should always be sure they see the OSHI's credentials.

### **Opening conference**

In the opening conference, the investigator explains the purpose of the investigation and its intended scope of coverage. The OSHI will also check whether an OSHA-funded consultation is in progress or if there has been a recent enforcement inspection.

An authorized employee representative will be given the opportunity to attend the opening and closing conferences and to accompany the investigator and the employer during the walkaround inspection. The investigator may also consult with a reasonable number of employees concerning safety and health matters in the workplace. Employees are protected under the act from discrimination by the employer for exercising their safety and health rights.

Every inspection includes a review of posting and recordkeeping requirements. The OSHI will inspect records of deaths, injuries and illnesses that the employer is required to keep. Also, the investigator will verify the MNOSHA workplace poster, which explains employees' safety and health rights, is prominently displayed. Where the employer has records of employee exposure to toxic substances and harmful physical agents, these may also be examined.

MNOSHA places special importance on the development of workplace safety and health programs. The Minnesota Legislature passed the A Workplace Accident and Injury Reduction (AWAIR) Act in 1990 that requires many employers to establish written safety and health programs. The OSHI will review AWAIR and other OSHA-required programs.

The investigator will also explain the requirements of the Minnesota Employee Right-to-Know (ERTK) standard. Under ERTK, employers must establish a written comprehensive right-to-know program that includes provisions for container labeling, material safety data sheets and employee training. The program must contain a list of the hazardous chemicals in each work area and the means the employer will use to inform employees of the hazards of both everyday and nonroutine tasks.

## **Walkaround**

After the opening conference, the investigator and accompanying representatives will proceed through the establishment to inspect work areas for safety or health hazards. An inspection tour may cover part or all of an establishment, even if the inspection resulted from a specific complaint, fatality or catastrophe.

The route and duration of the inspection are determined by the investigator. While talking with employees, the investigator makes every effort to minimize work interruptions.

The investigator will observe safety and health conditions and practices; consult with employees privately; take photos, videos and/or instrument readings; examine records, collect air samples, measure noise levels and survey existing engineering controls; and monitor employee exposure to toxic fumes, gases and dusts.

During the course of the inspection or at the closing conference, the investigator will point out to the employer any unsafe or unhealthful working conditions observed. It is the responsibility of the employer to take notes about the unsafe and unhealthful conditions and begin correcting them as soon as possible.

Some apparent violations detected by the investigator can be corrected immediately. Even though corrected, these apparent violations still serve as the basis for a citation and penalty. However, prompt action may be considered as a factor in penalty reduction.

## **Closing conference**

At the conclusion of the inspection, the investigator conducts a closing conference with the employer and the authorized employee representative. The investigator will discuss with the employer all unsafe or unhealthful conditions observed during the inspection and indicate violations for which a citation and penalty may be issued. The investigator may explain the basis for penalty calculation but will not indicate any specific penalties. The investigator will also discuss possible abatement methods. The length of time needed for abatement of each item will be discussed and a reasonable amount of time allowed. The employer is also informed of contestation rights and the right to have the abatement date extended. These appeal rights are described on page six of this booklet.

### **• Inspection results**

The investigator prepares a report of inspection findings including the basis for all proposed citations and penalties.

### **Citations**

Citations inform the employer and employees of the OSHA standards that are alleged to have been violated and of the date by which they must be abated. The employer will receive a "Citation and notification of penalty" by certified mail. The employer must post a copy of each citation at or near the place a violation occurred for 20 days or until the violation is corrected, whichever is longer.

### **Penalties**

Penalties are based on the severity and probability of injury that is likely to result from an employee being exposed to the cited

hazard. There are six levels of severity, ranging from "A" for the least serious violations to "F" for the most serious. The OSHI considers the combined severity and probability levels for each apparent violation and assigns a corresponding penalty amount. (See penalty chart on the next page.)

A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30 percent credit for demonstrated efforts to provide a safe workplace), size of business (up to 55 percent) and previous violation history (up to 10 percent).

These are the types of violations that may be cited by MNOSHA and the penalties that may be proposed.

- **Nonserious** – A violation is classified as nonserious where only a minor injury or illness has resulted or would reasonably be expected to result from an employee's exposure to a violation of a standard. Penalties for nonserious violations generally range from \$0 to \$1,000, although the law allows for up to \$7,000 to be assessed.

- **Serious violation** – A violation is classified as serious where death or serious physical harm has resulted or would reasonably be expected to result from an employee's exposure to a violation of a standard. Penalties for serious violations generally range from \$1,500 to \$5,000, although the law allows for up to \$7,000 to be assessed.

- **Willful violation** – A violation that exposes employees to harm that the employer intentionally and knowingly commits is classified as a willful violation. To cite willful, the investigator must collect evidence that the employer is aware a hazardous condition exists, knows the condition violates a standard or other

obligation of the act and does not make a reasonable effort to eliminate it. Penalties of up to \$70,000 may be proposed for each willful violation. The minimum willful penalty is \$25,000 for employers with more than 50 employees; \$5,000 for employers with 50 or fewer employees. No credits will be given for good faith on a willful violation.

- **Repeated violation** – A serious or nonserious violation that exposes employees to harm may be cited as a repeated violation where, upon reinspection, the same standard or a substantially similar standard has been found to have been violated at the same establishment within a three-year period and the original citation has become a final order. Repeated violations can bring a fine of up to \$70,000 for each such violation.

- **Failure to abate** – Failure to correct (abate) a prior violation may bring an additional penalty of up to \$7,000 for each day the violation continues beyond the prescribed abatement date.

- **Fatality penalty** – If any serious, willful, repeated or failure to abate violation causes or contributes to the death of an employee, the minimum total nonnegotiable fine that must be assessed for all citations connected to the death of an employee is \$50,000 if there is a willful or repeated violation and \$25,000 if there is no willful or repeated violation. The exception is violations of the General Duty Clause (M.S. 182.653 subd. 2), which carry a maximum penalty of \$25,000. Employers with fewer than 50 employees and no willful or repeated violations may be eligible for a four-year extended payment plan and possible waiver of part of the \$25,000 penalty. For these employers, the fine may be waived entirely if the fatality victim owned or held a controlling interest in the business of enterprise.

Penalty chart -- amounts unadjusted for good faith, size and history						
<b>Probability</b>  <b>Based on:</b> – Employee exposure – Proximity to hazard – Duration of hazard – Work conditions	<b>Severity</b> <i>Based on:</i> The injury or illness that could reasonably be expected to result from an employee's exposure to the violative condition.					
	Nonserious		Serious			
	A	B	C	D	E	F
<b>Lesser</b> (one to four)	0	\$500	\$1,500	\$2,000	\$2,500	\$3,000
<b>Greater</b> (five to eight)	\$500	\$1,000	\$2,000	\$3,000	\$4,000	\$5,000

**Note:** Additional multiplying factors will be applied to penalties for serious violations contributing to a fatality, and to willful, repeat and failure-to-abate violations.

### Abatement

Within 30 calendar-days of receiving a citation, the employer must submit a progress report about correction of alleged violations not immediately abated. A "Progress report" form is included with the citation. Reports must state the specific corrective action taken on each cited item, the date the action was completed and the anticipated abatement date of uncompleted items. Additional written progress reports must be submitted every 30 days until all items are fully abated. Progress reports may be submitted by mail or facsimile (fax) transmission to the area office noted on the "Progress report" form. A sample form can be found on the next page. Blank forms can

also be printed from the department's Web site.

Affected employees and their representatives must be notified of the abatement and of their right to examine and copy all abatement documents. The progress report must remain posted for 15 days. If required progress reports are not submitted, the employer may be subject to an additional citation, penalty and/or followup inspections.



Return to: Minnesota OSH Division  
443 Lafayette Road N.  
St. Paul, MN 55155

Telephone: (651) 284-5050  
Fax: (651) 284-5741  
Web: [www.dli.mn.gov](http://www.dli.mn.gov)

In accordance with MN Rule 5210.0532, this report **must** be returned to the area office designated above. **Failure to submit** all required progress reports will result in an additional citation, penalty and/or follow-up inspection. The completed "Progress report" form is to be mailed by the latest abatement date on the citation or within 30 days after receipt of the citation, whichever is earlier. Additional reports (if necessary) are to be sent at 30-day intervals until all items have been fully abated.

From	Inspection no.	OSHI I.D.	Optional report no.
	Job site		

(Attach an additional sheet, if necessary.)

(Attach an additional sheet, if necessary.)			(Fill in one)		Office use only Abated (initials)
Citation and item no.	Action taken	Abatement date on citation	Date abated (corrected)	Anticipated completion date (see note)	

**Note:** If the anticipated completion date is beyond the date by which the alleged violation must be abated, you must submit a separate written "Petition for modification of abatement date" (PMA) to request an extension of time allowed for completion. See the instructions for a PMA on page 2 of the "Citation and notification of penalty."

A copy of this "Progress report" must be posted for 15 days where the citation and notification of penalty is posted and all affected employees and their representatives must be informed of their right to examine and copy all abatement documents submitted to the commissioner.

I hereby certify this information is accurate.

Completed by	Title
Phone	Date

(Revised December 2004)

Additional copies of this form are available online at [www.dli.mn.gov/OSHA/FormsMnosha.asp](http://www.dli.mn.gov/OSHA/FormsMnosha.asp).



## • Appeals process

### Notice of contest

If the employer files a "Notice of contest" form within 20 calendar-days after receiving the citation, according to the instructions contained on the form and on the citation, an informal conference is arranged with the employer to discuss the issues of the case and determine if an out-of-court settlement can be negotiated. If an agreement is reached, a written settlement agreement will be prepared for both parties to sign. If not, the case will be scheduled for hearing before an administrative law judge. The employer and the employees have the right to participate in the hearing; the law does not require they be represented by attorneys. After the administrative law judge has ruled, any party to the case may request a further review by the appropriate District Court. Blank "Notice of contest" forms are available through the department's Web site.

### Petition for modification of abatement date (PMA)

Upon receiving a citation, the employer must correct the cited hazard by the abatement date listed in the citation unless the employer contests the citation or abatement date.

Factors beyond the employer's control, such as parts on back order, may prevent the completion of corrections by the abatement date. In such a situation, the employer may file a petition to modify the abatement date (PMA). Instructions for submitting a PMA are listed on the "Citation and notification of penalty" received by the employer.

### Appeals by employees

Employees may contest citations, amendments to citations, proposed penalties or time allowed for abatement of a hazardous condition. They also may contest an employer's "Petition for modification of abatement date" (PMA), which requests an extension of the proposed abatement period.

Employee appeal rights are listed on the "Citation and notification of penalty" received by the employer and posted in the work area.

## • Consultation services

Consultation assistance is available on request to private- and public-sector employers that want help in establishing and maintaining a safe and healthful workplace. Largely funded by federal OSHA, the service is provided at no cost to the employer. Primarily developed for smaller employers, consultation assistance may include an appraisal of the workplace and the employer's present job safety and health program. The determination of the actual scope and emphasis of the consultation is left up to the employer. No penalties are proposed or citations issued for hazards identified by the consultant; however, the employer must agree to abate all serious violations of standards identified. MNOSHA Compliance is not informed of those employers requesting consultation assistance.

The program also offers financial assistance to employers in the form of matching grants. Qualified employers can receive up to \$10,000 toward the purchase of safety equipment, including installation and operator training.

For more information concerning consultation assistance, see the address and phone number listed at the end of this publication.

## • Information services

MNOSHA offers a variety of public information services, such as publications, audiovisual aids and technical advice. Employers are encouraged to call their nearest MNOSHA area office to request this assistance. Speakers may also be arranged on a limited basis by submitting a written request to the St. Paul office.

OSHA information is also available on the Minnesota Department of Labor and Industry

Web site ([www.dli.mn.gov](http://www.dli.mn.gov)) and on the federal OSHA Web site ([www.osha.gov](http://www.osha.gov)).

### **MNOSHA-related publications**

Single, free copies of the following publications can be obtained from any MNOSHA area office.

*An employer's guide to developing A Workplace Accident and Injury Reduction (AWAIR) program*

*A Workplace Accident and Injury Reduction (AWAIR) program for small construction employers*

*An employer's guide to developing an Employee Right-to-Know program*

*Employee Right-to-Know on construction sites*

MNOSHA also carries a wide variety of handouts about various subjects. A list of current online publications is available at [www.dli.mn.gov/OSHA/Information.asp](http://www.dli.mn.gov/OSHA/Information.asp).

OSHA posters and 300 logs can be obtained free of charge by calling the Department of Labor and Industry at (651) 284-5042 or toll-free at 1-800-DIAL-DLI (1-800-342-5354).

Federal OSHA Standards, Minnesota OSHA Occupational Safety and Health Standards and Minnesota Statutes Chapter §182 are available from the sources listed on the last page of this booklet. Standards are online at [www.dli.mn.gov/OSHA/Information.asp](http://www.dli.mn.gov/OSHA/Information.asp).

### **• MNOSHA area offices**

MNOSHA is part of the Department of Labor and Industry and consists of separate enforcement and consultation services.

#### **Compliance (enforcement)**

MNOSHA Compliance personnel are located in three area offices.

*St. Paul Area Office*

443 Lafayette Road N.

St. Paul, MN 55155-4307

Phone: (651) 284-5050

Toll-free: 1-877-470-6742

*Duluth Area Office*

525 Lake Ave. S., Suite 330

Duluth, MN 55802-2368

Phone: (218) 733-7830

*Mankato Area Office*

Mankato Place

12 Civic Center Plaza, Suite 1650

Mankato, MN 56001-7781

Phone: (507) 389-6507

#### **Consultation**

The MNOSHA Workplace Safety Consultation unit is located in St. Paul.

443 Lafayette Road N.

St. Paul, MN 55155-4307

Phone: (651) 284-5060

Toll-free: 1-800-657-3776

#### **Customer feedback**

Employers and employees who wish to provide comments regarding an OSHA inspection may complete an online survey at [www.dli.mn.gov/OSHA/SurveyFeedback.asp](http://www.dli.mn.gov/OSHA/SurveyFeedback.asp).

Anyone wishing to comment on the content or design of the Web site may complete an online survey as well.

## Minnesota OSHA rules and standards

The most recent copy of the Minnesota Department of Labor and Industry "Occupational Safety and Health Rules," which includes the "Employee Right-To-Know Standards" and "A Workplace Accident and Injury Reduction (AWAIR) Act," are available from Minnesota's Bookstore. Specify stock number 135.

Minnesota's Bookstore  
Department of Administration

660 Olive Street

St. Paul, MN 55155

Phone: (651) 297-3000 or 1-800-657-3757

Fax: (651) 296-2265

Web: [www.minnesotasbookstore.com](http://www.minnesotasbookstore.com)

Hours: 8 a.m. to 5 p.m., Monday through Friday

Visa, MasterCard, American Express and Discover are all accepted.

Make checks payable to "Minnesota's Bookstore."

Copies of the Minnesota Statutes and Rules are also available free through the Department of Labor and Industry Web site at [www.dli.mn.gov](http://www.dli.mn.gov).

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## Federla OSHA Standards

The Federal Occupational Safety and Health Standards listed below may be ordered from Minnesota's Bookstore; or through the U.S. Government Printing Office at <http://bookstore.gpo.gov>, by phone at 1-866-512-1800 or by mail at:

U.S. Government Printing Office

732 N. Capitol Street, N.W.

Washington, DC 20401

Phone: (202) 512-1800 or 1-866-512-1800

Fax: (202) 512-2104

Visa, MasterCard, American Express and Discover are all accepted.

Make checks payable to "Superintendent of documents."

OSHA General Industry Safety and Health Regulations (a two-volume set)

Part I – (29 CFR Part 1901.1 to 1910.999)

Part II – (29 CFR Part 1910.1000 to end)

OSHA Construction Safety and Health Regulations (29 CFR Part 1926)

Copies of the standards are also available free at the federal OSHA Web site at [www.osha.gov](http://www.osha.gov).

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Other standards and codes referenced in the OSHA standards may be ordered from:

American National Standards Institute, Inc.

11 W. 42nd Street

New York, NY 10036

Phone: (212) 642-4900

Web: [www.ansi.org](http://www.ansi.org)

National Fire Protection Association

Batterymarch Park

Quincy, MA 02269

Phone: (617) 770-3000 or 1-800-344-3555

Web: [www.nfpa.org](http://www.nfpa.org)

Underwriters Laboratories, Inc.

333 Pfingsten Road

Northbrook, IL 60062-2096

Web: [www.ul.com](http://www.ul.com)

ANSI, NFPA and UL standards are also available from Global Engineering Documents at 1-800-854-7179 and [www.global.his.com](http://www.global.his.com).